IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. WJC No.94 of 2007

PROF.DR.VALMIKI PRASAD SINGH
Versus
THE STATE OF BIHAR & ORS

7 9-5-2008 Heard learned counsel for the parties.

The petitioner is University Professor and Dean, Faculty of Social Sciences and Education, L .N. Mithila University and his wife Srimati Shanti Devi Singh is a Government school teacher. The private respondent nos. 6 and 7 are their son and daughter-in-law.

In this writ application the petitioner has prayed for directing the respondent nos. 1 to 5 to take appropriate legal action for protection of life and property of petitioner and his family members and for removing unauthorized occupation/ possession of the private respondents from his house.

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The case of the writ petitioner, in short, is that he has two sons named, (1) Prashant Kumar and (2) Nishant Kumar (respondent no.6). Prashant Kumar being the eldest one is a Software Engineer working in Mumbai. The youngest son Nishant Kumar had paralytic attack in his legs during childhood. He was provided all possible medical treatment to lead normal life. He did B.Sc in Agriculture. He drives motor vehicle etc. freely. It is said that on account of physical disability his marriage could not be arranged in a good family and, therefore, it was performed with respondent no.7 belonging to a family of lower standard. It is said that respondent no.6 fell in bad company and became drunkard and frequently started asking for money from the petitioner and his wife. Respondent no.6 also started

entertaining his guests during late night hours by serving liquor, feasts and also played music at high volume as a result of which the petitioner and his wife started passing several sleepless nights causing serious health problem. The petitioner and his wife are ill and suffering from serious ailments and are on medicines. The writ petitioner learnt that respondent no.6 has been further misguided by his in-laws and other bad elements that he will secure a government job in the event of death of either of his parents on compassionate ground and for this reason also the private respondent nos. 6 and 7 do not want to spare anything so that the petitioner and his wife may die before their retirement. The respondent nos. 6 and 7 have occupied a portion of the house of the petitioner and from the house itself they are doing all type of unlawful activities. The petitioner has filed Eviction case no. 7/06 in the lower court. The petitioner and his wife arranged loan so that respondent no.6 could earn with dignity but their all efforts failed. The writ petitioner says that their life and safety is in danger at the hands of the private respondents and none of the official respondents has felt necessity for taking any action against the private respondents.

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The official respondent nos. 3, 4 and 5 have filed counter affidavit in which they have stated that respondent no.6 performed love marriage with respondent no.7 on account of which there was quarrel in the family. The respondent no.7 has filed a case bearing town PS case no. 121/05 u/ss 341, 323 and 504 of the Indian Penal Code against the petitioner in which charge sheet has been submitted

by the police. Then respondent no.7 has also filed complaint case no. 2027/05 against the petitioner which is pending in the court Sub divisional Judicial Magistrate, Begusarai. They have also asserted that respondent nos. 6 and 7 are not in the company of disgruntled elements and there is no such case against them.

In spite of service of notice the private respondents did not appear to contest the matter.

Learned counsel appearing on behalf of the writ petitioner vehemently argued that the writ petitioner gave several information in writing to local authorities for protection from respondent nos. 6 and 7 and for starting necessary legal action against them but respondent nos. 2 to 5 did not take any effective measure. He further submitted that respondent nos. 6 and 7 have made his house a hub of illegal activities and also den of criminals but respondent nos. 2 to 5 are not ready to take any action against them. In this connection, he referred to various annexures to the application. He also submitted that privacy of the petitioner is in danger and the respondent no.6 is a licensee and he cannot claim to live in the house. He also submitted that since the police authorities have failed to discharge their duties and, therefore, Mandamus may be issued to enforce the performance of legal rights. In support of his contention the learned counsel placed reliance on the following four decisions. ***(i) PLJR 2004 (II) page 11 (SC), (ii) PLJR 2005 (I) 579, (iii) 2005 (SCC) (I) 501 and (iv) 2006 (IV) (SCC) 501***.

On the other hand the learned Standing Counsel appearing on behalf of respondent nos. 3, 4 and 5 submitted that there is property

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dispute between the petitioner and his son and report has been submitted for taking appropriate action u/s 107 of the Cr.P.C against the parties. He also submitted that there is no information regarding visiting of anti social elements at the house of the petitioner.

Thus the position is that, respondent no.6 Nishant Kumar is a handicapped person. According to counter affidavit .he has no criminal history. Respondent no.7, Rashmi Kumari has filed town PS case no. 121/05 against the petitioner in which charge sheet has been submitted. She has also filed Complaint case no.2027/05 against the writ petitioner. Preventive action has been taken by the police. It appears from the pleadings of the parties that there is property dispute between the father and the son and the writ petitioner is not happy with his youngest son because he has performed love marriage. Then Eviction suit is also pending between the parties. The High Court cannot be made a forum for adjudicating civil rights. The question of eviction of respondent nos. 6 and 7 from the house requires evidence.

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I have seen the decisions relied upon by the learned counsel and in my view they have no application in the present case.

In such view of the matter, I find no merit in the application which is, accordingly, dismissed.

However, if the petitioner feels that he should receive police protection he may make appropriate representation to the Superintendent of Police of the district who may pass appropriate order as permissible in law after making due enquiry.

BKS/ **(M. Saran, J.)**